

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2763**

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**Introduced by Assembly Member Laird**

February 22, 2008

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An act to add Chapter 4.5 (commencing with Section 5260) to Part 1 of Division 4 of the Food and Agricultural Code, relating to pests.

LEGISLATIVE COUNSEL'S DIGEST

AB 2763, as amended, Laird. Invasive pests: advance planning: assessments.

Existing law generally provides for the eradication of pests that threaten this state's agriculture.

This bill would require the Department of Food and Agriculture to develop and maintain a list of invasives, defined to mean nonnative animals, plants, insects, and diseases and classes of similar nonnative animals, plants, insects, and diseases, that have a reasonable likelihood of entering the state for which an eradication, control, or management action by the state might be appropriate. The department would be required, based on available funding, to develop and maintain a written assessment of the most appropriate options for eradication, control, or management of high priority invasives on the list, and to include specified information in the assessment if the use of pesticides would be among the appropriate responses. Certain state agencies would be required to participate in the preparation of the assessment and the department would be required to hold public hearings. The bill would

require the department to notify the Governor, the governing boards of affected cities and counties, and county agricultural commissioners if an invasive on the list has entered the state, and, if the use of a pesticide is the preferred eradication, control, or management response, to advise the Governor and provide the Governor with a copy of the assessment. The department would also be required to, among other things, notify certain local governmental entities and officers, notify the public of specified health information, hold public hearings, and establish a telephone hotline, if the department determines that an invasive has entered the state, and the use of a pesticide is the selected response. The bill would require the department to seek federal funds for the implementation of this act *and would specify that if state funds are used to implement the act, it is the intent of the Legislature that only moneys from the Department of Agriculture Account in the Department of Food and Agriculture Fund be appropriated and spent.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 4.5 (commencing with Section 5260) is  
2 added to Part 1 of Division 4 of the Food and Agricultural Code,  
3 to read:

4  
5 CHAPTER 4.5. INVASIVE PEST PLANNING  
6

7 5260. The Legislature hereby finds and declares both of the  
8 following:

9 (a) Global travel, global trade, and climate change are introducing  
10 nonnative animals, plants, insects, and diseases to California.

11 (b) The State of California should undertake advance planning  
12 on whether and how to address those nonnative animals, plants,  
13 insects, and diseases that are a threat to the state's public health,  
14 environment, or economy.

15 (c) The Legislature fully recognizes that any prediction of which  
16 invasives will enter California cannot be precise because of the  
17 many entry mechanisms.

18 5260.5. For the purpose of this chapter, "invasive" means (a)  
19 nonnative animals, plants, insects, and diseases and (b) classes of  
20 similar nonnative animals, plants, insects, and diseases.

1     5261. The department shall develop and maintain a list of  
2     invasives that have a reasonable likelihood of entering California  
3     for which an eradication, control, or management action by the  
4     state might be appropriate. In developing the list, the department  
5     shall consider any invasive identified by the federal government  
6     for which an eradication, control, or management action might be  
7     undertaken by the federal government if the state did not act.

8     5262. (a) Based on available funding, the department shall  
9     develop and maintain a written assessment of the most appropriate  
10    options for eradication, control, or management of high priority  
11    invasives on the list prepared pursuant to Section 5261. In  
12    determining which invasives are high priority and in developing  
13    the most appropriate options for eradication, control, or  
14    management, the department shall consult with the United States  
15    Department of Agriculture, the University of California, and others  
16    in the scientific and research community. In implementing this  
17    chapter, the department may undertake or contract for scientific  
18    research with the University of California or other institutions of  
19    higher learning.

20    (b) If the department determines that the use of pesticides would  
21    be among the more appropriate responses, the assessment shall  
22    contain a discussion of all of the following:

23    (1) The consequences of not eradicating, controlling, or  
24    managing the invasive.

25    (2) The pesticides that would likely be the most appropriate.

26    (3) The concentrations of those pesticides.

27    (4) How often pesticide use would be necessary.

28    (5) The method of application.

29    (6) A list of each active ingredient and inert material, to the  
30    extent that the disclosure of the inert material is permitted by state  
31    and federal law or voluntarily disclosed by the manufacturer.

32    (7) A summary of up-to-date scientific information on the  
33    impacts of the pesticide and its inert materials on all of the  
34    following:

35    (A) Healthy children and adults.

36    (B) Children and adults with compromised health.

37    (C) Domestic animals.

38    (D) Fish and wildlife.

39    (E) The environment.

(c) The State Department of Public Health, the Department of Fish and Game, the Office of Environmental Health Hazard Assessment, and the Department of Pesticide Regulation shall participate in the preparation of the assessment in their areas of expertise. The Office of Environmental Health Hazard Assessment shall include an analysis of the risks of using the pesticide and its inert material.

(d) In developing the assessment, the department shall hold public hearings and establish a process for submittal of public comment. Following the public hearing, the department shall reassess the appropriateness of the response and may revise the response and may hold additional public hearings.

(e) The assessment shall include a characterization of the number of and the nature of the public comments received pursuant to subdivision (d).

(f) The department shall make the assessment available to the public, including making it available on the department's Internet Web site.

5263. If the department determines that an invasive identified on the list developed pursuant to Section 5261 has entered the state, the department shall notify the Governor, the governing boards of affected cities and counties, and county agricultural commissioners.

5264. If the department determines that an invasive has entered the state and the use of a pesticide is the preferred eradication, control, or management response, the department shall advise the Governor and provide the Governor with a copy of the assessment for that invasive. If an assessment has not been prepared for that invasive, the department, the State Department of Public Health, the Department of Fish and Game, the Office of Environmental Health Hazard Assessment, and the Department of Pesticide Regulation shall advise the Governor of the lack of an assessment and advise the Governor of the best available options.

5265. If the department determines that an invasive has entered the state, and the use of a pesticide is the selected response, the department shall do all of the following:

(a) Notify the governing boards of affected cities and counties and their agricultural commissioners and health officers.

(b) Notify the public of all of the following:

(1) The existence of the invasive.

1 (2) The consequences of not eradicating, controlling, or  
2 managing the invasive.

3 (3) The active ingredient and inert material of the pesticide, to  
4 the extent that the disclosure of the inert material is permitted by  
5 state and federal law or voluntarily disclosed by the manufacturer.

6 (4) The method or methods of applying the pesticide.

7 (5) The implications of the use of the pesticide and the inert  
8 materials on human health, domestic animals, fish and wildlife,  
9 and the environment.

10 (c) Hold public hearings in the areas affected in advance of any  
11 pesticide application.

12 (d) Establish a telephone hotline for the public to report adverse  
13 health consequences and a medical process to evaluate and respond  
14 to adverse health consequences.

15 5266. The department shall seek federal funds for the  
16 implementation of this chapter *and, to the extent state funds are*  
17 *used for the implementation of this chapter, it is the intent of the*  
18 *Legislature that only moneys from the Department of Agriculture*  
19 *Account in the Department of Food and Agriculture Fund be*  
20 *appropriated and spent.*